

## § 404.303

qualify for hospital and medical insurance if you are aged, disabled, or have chronic kidney disease.

### § 404.303 Definitions.

As used in this subpart:

*Apply* means to sign a form or statement that the Social Security Administration accepts as an application for benefits under the rules set out in subpart G.

*Eligible* means that a person would meet all the requirements for entitlement to benefits for a period of time but has not yet applied.

*Entitled* means that a person has applied and has proven his or her right to benefits for a period of time.

*Insured person or the insured* means someone who has enough earnings under social security to permit payment of benefits on his or her earnings record. The requirements for becoming insured are described in subpart B.

*Permanent home* means the true and fixed home (legal domicile) of a person. It is the place to which a person intends to return whenever he or she is absent.

*Primary insurance amount* means an amount that is determined from the average monthly earnings creditable to the insured person. This term and the manner in which it is computed are explained in subpart C.

*We or Us* means the Social Security Administration.

*You* means the person who has applied for benefits or the person for whom someone else has applied.

### § 404.304 General rules on benefit amounts.

This subpart describes how the highest monthly benefit amount you ordinarily could qualify for under each type of benefit is determined. However, the highest monthly benefit amount you could qualify for may not be the amount that you actually are paid each month. In a particular month, your benefit amount may be reduced or not paid at all. Under some circumstances, your benefit amount may be increased. The most common reasons for a change in the amount of your benefit payments are listed below:

(a) *Reductions based on age or earnings.* As explained in §§ 404.410 through

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404.413, your old-age, wife's, husband's, widow's, or widower's benefits may be reduced if you choose to receive them before age 65. Also, as explained in §§ 404.415 through 404.417, deductions may be made from your benefits if your earnings or the insured person's earnings go over certain limits.

(b) *Overpayments and underpayments.* Your benefits may be increased or decreased for a time to make up for any previous overpayment or underpayment that was made on the insured person's record. For more information about this, see subpart F.

(c) [Reserved]

(d) *Family maximum.* As explained in § 404.403, there is a maximum amount set for each insured person's earnings record that limits the total benefits payable on that record. If you are entitled to benefits as the insured's dependent or survivor, your benefits may be reduced to keep total benefits payable to the insured's family within these limits.

(e) *Government pension offset.* If you are entitled to wife's, husband's, mother's, father's, widow's or widower's benefits and receive a Government pension for work that was not covered under social security, your benefits may be reduced by the amount of that pension. Special age 72 payments are also reduced by the amount of a Government pension. For more information about this, see § 404.408(a) which covers benefits and § 404.384(c) which covers special age 72 payments.

(f) *Rounding.* After all other deductions or reductions, any monthly benefit which is not a multiple of \$1 is reduced to the next lower multiple of \$1.

[44 FR 34481, June 15, 1979, as amended at 48 FR 46148, Oct. 11, 1983]

### § 404.305 When you may not be entitled to benefits.

In addition to the situations described in § 404.304 when you may not receive a benefit payment, there are special circumstances when you may not be entitled to benefits. These circumstances are—

(a) *Waiver of benefits.* If you have waived benefits and been granted a tax exemption on religious grounds as described in §§ 404.1039 and 404.1075, no one may become entitled to any benefits or

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payments on your earnings record and you may not be entitled to benefits on anyone else's earnings record; and

(b) *Person's death caused by an intentional act.* You may not become entitled to or continue to receive any survivor's benefits or payments on the earnings record of any person, or receive any underpayment due a person, if you were convicted of a felony or an act in the nature of a felony of intentionally causing that person's death. If you were subject to the juvenile justice system, you may not become entitled to or continue to receive survivor's benefits or payments on the earnings record of any person, or receive any underpayment due a person, if you were found by a court of competent jurisdiction to have intentionally caused that person's death by committing an act which, if committed by an adult, would have been considered a felony or an act in the nature of a felony.

[44 FR 34481, June 15, 1979, as amended at 47 FR 42098, Sept. 24, 1982; 52 FR 19136, May 21, 1987, 52 FR 21410, June 5, 1987; 58 FR 64888, Dec. 10, 1993]

### OLD-AGE AND DISABILITY BENEFITS

#### § 404.310 Who is entitled to old-age benefits.

You are entitled to old-age benefits if—

- (a) You are at least 62 years old;
- (b) You have enough social security earnings to be *fully insured* as defined in §§ 404.110 through 404.115; and
- (c) You apply; or you are entitled to disability benefits up to the month you become 65 years old. At age 65, your disability benefits automatically become old-age benefits.

[44 FR 34481, June 15, 1979, as amended at 51 FR 10616, Mar. 28, 1986]

#### § 404.311 When entitlement to old-age benefits begins and ends.

(a) You are entitled to old-age benefits at age 65 beginning with the first month covered by your application in which you meet all the requirements for entitlement.

(b) You are entitled to old-age benefits if you have attained age 62, but are under age 65, beginning with the first month covered by your application

throughout which you meet all the requirements for entitlement.

(c) Your entitlement to benefits ends with the month before the month of your death.

[48 FR 21926, May 16, 1983]

#### § 404.312 Old-age benefit amounts.

(a) If your old-age benefits begin at age 65, your monthly benefit is equal to the primary insurance amount.

(b) If your old-age benefits begin after you become 65 years old, your monthly benefit is your primary insurance amount plus an increase for retiring after age 65. See § 404.313 for a description of these increases.

(c) If your old-age benefits begin before you become 65 years old, your monthly benefit amount is the primary insurance amount minus a reduction for each month you are entitled before you become 65 years old. These reductions are described in §§ 404.410 through 404.413.

[44 FR 34481, June 15, 1979, as amended at 51 FR 12604, Apr. 14, 1986]

#### § 404.313 Using delayed retirement credit to increase old-age benefit amount.

(a) *General.* (1) If you do not receive old-age benefits for the month you reach age 65 (retirement age) or for any later month before the month in which you reach age 70 (72 before 1984), you may earn delayed retirement credits which will increase your benefit amount when you retire. You earn delayed retirement credits for each of those months for which you are fully insured and are eligible for but do not receive old-age benefits, either because of your work or earnings, or because you have not applied for benefits. If you were entitled to old-age benefits before age 65 you may still earn delayed retirement credit for months beginning with age 65 in which your benefits were reduced to zero because of your work or earnings.

(2) Retirement age is the age at which entitlement to full benefits may begin and is the age at which you may begin to earn delayed retirement credits. Age 65 is the retirement age for workers who reach that age before the year 2003. For workers who reach age 65